IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

CRP.No. 600 of 2007()

E.A. 178/07 IN E.P.62/02 IN OS.71/1984 of MUNSIFF COURT, VAIKOM

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REVN. PETITIONER:

ANNAKUTTY THOMAS,
KUMARAMKERIL, KULASEKHARAMANGALAM,
VAIKOM, DIST.KOTTAYAM.

BY ADV. SRI.K.REGHU KOTTAPPURAM

RESPONDENTS:

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1. JOSE MATHEW, S/O.JOSEPH MATHEW,
MATTUMMEL, VALAMANGALAM THEKKEMURI,
THURAVOOR THEKKU VILLAGE, CHERTHALA TALUK,
DIST.ALAPUZHA.

2. KURIAKOSE MATHEW, S/O JOSEPH MATHEW,
MATTUMMEL, VALAMANGALAM THEKKEMURI,
THURAVOOR THEKKU VILLAGE, CHERTHALA TALUK,
DIST.ALAPUZHA.

3. MERCIAMMA MATHEW, D/O JOSEPH MATHEW,
MATTUMMEL VALAMANGALAM, THEKKEMURI,
THURAVOOR THEKKU VILLAGE, CHERTHALA TALUK,
DIST.ALAPUZHA.

BY
SRI.NIDHI BALACHANDRAN

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 11/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON I.A. NO: 1587/07 IN C.R.P. 600/07

DISMISSED:

11/7/2007 SD/- M.N.KRISHNAN, JUDGE

jj /TRUE COPY/

P.A. TO JUDGE

M.N.KRISHNAN, J.

C.R.P.No. 600 OF 2007 D

Dated this the 11th July, 2007.

O R D E R

This revision petition is filed challenging the order of the learned Munsiff, Vaikom in E.P.62/02. A perusal of the records would reveal that a decree has been passed by the court to get possession of a shed marked as PQRS in Ext.C2(a) plan falling outside plot ABCD in Ext.C2 plan. He is also entitled for a decree for recovery of possession of the property occupied by that portion of the shed on the south and east of plot ABCD. The plaintiff is also entitled for a decree for permanent prohibitory injunction restraining the respondents from trespassing into any other portion of the plaint schedule properties excluding plot ABCD. In the light of this decree, property ordered to be delivered has been delivered and now the grievance is with respect to the property which relates to permanent prohibitory injunction. Now the grievance of the plaintiff is that whenever she goes to the property to take usufructs from the property the respondents obstruct and thereby she is prevented from enjoying the decree granted by the court. The learned Munsiff had appointed a commissioner to ascertain about the obstruction and also had directed him to supervise taking yield from the property and give the

usufructs to the additional decree holder. When there is a decree for permanent prohibitory injunction and there is violation of the decree committed by a person Order XXI Rule 32 of the CPC provides remedy for the same and on proof of violation of decree of the court he can be sent to civil prison and his property can be attached. But it is a matter which requires detailed investigation on a petition filed by the decree holder and proof to arrive at the decision. The court cannot always grant or appoint a commission for the plaintiff to take usufructs from the property and the court cannot take the role of a law and order machinery for providing help to the petitioner to take usufructs from the property. Therefore, I set aside the order passed by the learned Munsiff, but make it very clear that if there is a grievance for the petitioner that the decree of the court has been violated or attempted to be violated, then the petitioner is at liberty to move an application under Order XXI Rule 32 CPC and adduce evidence in support of the same. Therefore this C.R.P is disposed of accordingly as stated above.

M.N.KRISHNAN
Judge

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